

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 5620 of 1996

For Approval and Signature:

Hon'ble MR.JUSTICE N.N.MATHUR

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
 2. To be referred to the Reporter or not?
 3. Whether Their Lordships wish to see the fair copy of the judgement?
 4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
 5. Whether it is to be circulated to the Civil Judge?

SHAILESH VINUBHAI DATANIYA

Versus

STATE OF GUJARAT THRO' JOINT SECRETARY

Appearance:

MS SUBHADRA G PATEL for Petitioner

Mr K M Mehta, AGP for Respondent No. 1, 2, 3

CORAM : MR.JUSTICE N.N.MATHUR

Date of decision: 04/11/96

ORAL JUDGEMENT

It is contended that the petitioner has been detained under the provisions of Gujarat Prevention of Anti-Social Activities (hereinafter referred to as 'the Act') only on the ground that two cases under the provisions of Bombay Prohibition Act, 1949 have been registered against the detinue. Relying on a decision of the Supreme Court in the case of Piyush v. Commissioner of Police, Ahmedabad, reported in AIR 1989 SC 491, it is contended by the learned Advocate that simply because the

detenue is a bootlegger, it will not be a sufficient ground unless there is material to show that he has further indulged in activities which has affected adversely or likely to affect adversely maintenance of public order.

2. No counter affidavit has been filed by the respondents. However, this Application is being opposed by Mr K M Mehta, learned AGP.

3. I have gone through the materials on record with the assistance of the learned Advocates. There is substance in the contention raised by the petitioner. There is no material to indicate that the petitioner as a bootlegger, has further indulged into such anti-social activities which has disturbed or likely to disturb or adversely affect maintenance of public order. Thus, the order of detention cannot be sustained.

4. In view of the aforesaid, this Special Civil Application is allowed. The impugned order of detention dated 25.6.1996 is quashed and set aside and direct that the detenu be set at liberty forthwith unless required in connection with any other case.

Rule made absolute accordingly.

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